

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MULTISCAN TECHNOLOGIES USA
LLC, et al.,

Plaintiffs,

v.

AVNER COHN,

Defendant.

CASE NO. C23-5978 BHS

ORDER

THIS MATTER is before the Court on defendant Avner Cohn's motion to dismiss, Dkt. 7, and on plaintiff Multiscan Technologies' motion for leave to file a substantive surreply, Dkt. 21.

In response to Cohn's motion to dismiss, Dkt. 7, Multiscan filed an amended complaint. Dkt. 9. An "amended complaint supersedes the original, the latter being treated thereafter as non-existent." *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997), *overruled on other grounds by Lacey v. Maricopa Cnty.*, 693 F.3d 896, 927–28 (9th Cir. 2012). When a motion to dismiss targets a complaint that has been

1 superseded by an amended complaint, the court should deem the motion to dismiss moot.
2 *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015).

3 Accordingly, Cohn's first motion to dismiss, Dkt. 7, is **DENIED** as moot.

4 Cohn's second motion to dismiss, Dkt. 10 (aimed at Multiscan's amended
5 complaint, Dkt. 9) will be addressed in a separate order. In the meantime, Multiscan's
6 motion for leave to file a substantive surreply to Cohn's reply, Dkt. 24, filed in support of
7 his second motion to dismiss, is **GRANTED**, and Multiscan may file the brief attached to
8 its motion at Dkt. 21-1.

9 **IT IS SO ORDERED.**

10 Dated this 18th day of March, 2024.

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BENJAMIN H. SETTLE
United States District Judge